

#### **IC 8-4.5-4**

##### **Chapter 4. Acquisition of Abandoned Rights-of-Way by the State**

#### **IC 8-4.5-4-1**

##### **Acquisition of railroad's interest**

Sec. 1. The Indiana department of transportation shall determine whether the state should acquire a railroad's interest in a corridor that is proposed to be abandoned.

*As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.6; P.L.59-2005, SEC.2.*

#### **IC 8-4.5-4-1.5**

##### **Assistance in acquisition of railroad's interest**

Sec. 1.5. The board shall advise and assist the Indiana department of transportation in matters concerning the acquisition of a railroad's interest in a corridor under this chapter.

*As added by P.L.59-2005, SEC.3.*

#### **IC 8-4.5-4-2**

##### **Purposes of acquisition**

Sec. 2. The state may acquire any part of a railroad's interest in a corridor under this chapter for any of the following purposes:

- (1) A present or future rail line.
- (2) A transportation corridor.
- (3) A communication corridor.
- (4) A recreational trail.
- (5) A utility corridor.
- (6) The preservation of a railroad corridor.
- (7) Any combination of purposes described in subdivisions (1) through (6).

*As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.7.*

#### **IC 8-4.5-4-3**

##### **County meeting to consider acquisitions**

Sec. 3. (a) The Indiana department of transportation shall hold at least one (1) public meeting in a county through which the corridor passes before determining whether the state should acquire a railroad's interest in a corridor that is proposed to be abandoned. Notice of the meeting must be given in accordance with IC 5-14-1.5.

(b) In addition to the notice requirements of IC 5-14-1.5, the department shall give notice of a meeting under this section to the following:

- (1) The county commissioners of each county through which the railroad's interest in the proposed abandoned corridor passes.
- (2) The legislative body of each city or town:
  - (A) through which the railroad's interest in the corridor passes; or
  - (B) that is within one (1) mile of any part of the railroad's interest in the corridor.

(3) The railroad that proposes to abandon the railroad's interest in the corridor.

(4) The Indiana utility regulatory commission.

Notice must be given to the persons described in subdivisions (1) through (4) not later than the date notice is required to be published under IC 5-14-1.5.

(c) The department may hold additional meetings before making a determination under this chapter.

(d) The department shall hold a meeting under this section in each county through which the railroad's interest in the corridor passes.  
*As added by P.L. 40-1995, SEC.3. Amended by P.L. 158-1999, SEC.8; P.L. 59-2005, SEC.4.*

#### **IC 8-4.5-4-4**

##### **Factors to be considered**

Sec. 4. In determining whether the state should acquire any part of a railroad's interest in a corridor, the Indiana department of transportation shall consider the following factors:

(1) The potential for future use of the railroad's interest in the corridor as a freight or high-speed passenger rail line, considering the following:

(A) The potential need for use of the railroad's interest in the corridor for future transportation purposes.

(B) The cost of maintaining the railroad's interest in the corridor during any time before the future transportation use will begin.

(C) The effect of any interim use and the future transportation use of the railroad's interest in the corridor on property owners.

(D) Any relevant requirement of any federal law.

(E) Any other factor the department considers relevant.

(2) Based on the recommendation of the department of natural resources, the potential for recreational use of the railroad's interest in the corridor considering the following:

(A) The recreational value of the railroad's interest in the corridor.

(B) The feasibility of using the railroad's interest in the corridor for recreation.

(C) The likelihood that there may be significant recreational use of the railroad's interest in the corridor if the railroad's interest in the corridor is converted to a recreational trail.

(D) The general acceptability of the proposed recreational use of the railroad's interest in the corridor to property owners and the community at large.

(E) The existence of a willing person, whether public or private, to operate the railroad's interest in the corridor for the proposed recreational use.

(F) Any relevant requirement of any federal law.

(G) Any other factor the department considers relevant.

(3) The potential for the use of the railroad's interest in the

corridor for communications or utility use.

(4) Whether there are funds to acquire the railroad's interest in the corridor.

*As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.9.*

#### **IC 8-4.5-4-5 Repealed**

*(Repealed by P.L.59-2005, SEC.5.)*

#### **IC 8-4.5-4-6**

##### **Acquisition**

Sec. 6. (a) If:

(1) a determination is made under this chapter to acquire the railroad's interest in the corridor; and

(2) money is available in the fund;

the state shall acquire the railroad's interest in the corridor under IC 4-20.5-3.

(b) An acquisition by the state under this chapter does not deprive a public utility of the use of all or part of the railroad's interest in the corridor, if, at the time of acquisition:

(1) the public utility is occupying and using all or part of the railroad's interest in that corridor for the location and operation of its facilities; or

(2) the public utility has acquired an interest for use of all or part of the railroad's interest in the corridor.

*As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.11.*

#### **IC 8-4.5-4-7**

##### **Deposit of revenues**

Sec. 7. If the state acquires any interest in the corridor under this article, all revenues from a railroad's interest in a corridor acquired under this chapter, including payments derived from public utility or other easements, must be deposited in the fund.

*As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.12.*

#### **IC 8-4.5-4-8**

##### **Acquisition for recreational purpose**

Sec. 8. If a railroad's interest in a corridor is acquired under this chapter for a recreational purpose, the railroad's interest in the corridor must be developed and operated under IC 8-4.5-5.

*As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.13.*